

## **BILL ANALYSIS**

Senate Research Center  
78R16607 RCJ-F

C.S.H.B. 1730  
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Administration  
5/16/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, the Texas Water Code allows property to be leased by a port to a company for less than ten years without a bid process. Some perceive the code as putting Texas ports at a disadvantage with other ports around the nation. Individual maritime companies at times will guarantee significant capital investment into properties at public ports but only with a long-term lease to give the company enough time to recover the expenditure. Many Texas airports already have provisions allowing leases of property for up to 30 years without a bid. C.S.H.B. 1730 brings Texas ports in line with competing states and Texas airports.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 60.039, Water Code, as follows:

Sec. 60.039. New heading: SURFACE LEASE FOR NOT MORE THAN 30 YEARS. Authorizes the navigation and canal commission (commission) to lease the surface of land for not more than 30 years, rather than 10 years, by the entry of an order on the minutes of the commission and the execution of a lease in the manner provided by the original order. Makes a conforming change.

SECTION 2. Amends Section 60.040, Water Code, as follows:

Sec. 60.040. New heading: PUBLICATION OF NOTICE FOR SALES AND LEASES IN EXCESS OF 30 YEARS. Makes a conforming change.

SECTION 3. Amends Section 60.041, Water Code, as follows:

Sec. 60.041. SECURITY FOR BIDS ON LAND TO BE SOLD OR LEASED FOR MORE THAN 30 YEARS. Makes conforming changes.

SECTION 4. Amends the heading to Section 60.042, Water Code, as follows:

Sec. 60.042. AWARD AND EXECUTION OF DEED OR LEASE IN EXCESS OF 30 YEARS.

SECTION 5. Amends Section 60.151, Water Code, as follows:

Sec. 60.151. PURPOSE. Provides that it is the purpose and intent of this subchapter to confer on districts individually, jointly, or mutually interested in a navigation project, including a project relating to improvements and facilities described in Sections 60.032 and 60.101 of this code, the fullest possible power of contract with regard to navigation or other projects of individual or common interest.

SECTION 6. Amends Section 60.152(a), Water Code, as follows:

(a) Authorizes one, rather than two, or more districts, which are interested in or may, in the judgment of the commission, be benefitted by a navigation or other project, to enter into contracts with the United States or with another district, rather than each other, or both, to consummate navigation or other projects of common interest.

SECTION 7. Amends Section 60.403(a), Water Code, to authorize a port commission, authorized designated officer of the port commission, or authorized designated employee of a port authority or district to make routine purchases or contracts in an amount not to exceed \$25,000.

SECTION 8. Amends Subchapter N, Chapter 60, Water Code, by adding Section 60.4035, as follows:

Sec. 60.4035. **CONTRACTS: EMERGENCY PURCHASES.** (a) Authorizes the executive director of a port commission or an officer of a port commission authorized in writing by the executive director of the port commission, notwithstanding Sections 60.404 and 60.406, to make emergency purchases or contracts in an amount that exceeds \$25,000 if necessary for certain purposes.

(b) Requires the executive director of a port commission or the authorized officer of the port commission to notify the port commissioners of any purchase made under Subsection (a) not later than 48 hours after the purchase is made.

SECTION 9. Amends Section 60.404(d), Water Code, to require specifications to meet certain guidelines, including indicating whether a small business development program adopted by the port commission of the port authority or district applies to the purchase and, if so, where a copy of the program requirements may be obtained.

SECTION 10. Amends Subchapter N, Chapter 60, Water Code, by adding Section 60.4115, as follows:

Sec. 60.4115. **NOTIFICATION OF SAFETY AND ENVIRONMENTAL RECORD OF CONTRACTOR.** (a) Requires a person that enters into a contract with a district or port authority to provide, at the request of the district or port authority, notice to the district or authority of any citation, notice of violation or penalty, or other similar document regarding a serious safety or environmental violation that the person received from an agency or department of this state or of the federal government. Requires the notice to include certain information.

(b) Authorizes a district or port authority to terminate a contract with a person if the district or authority determines that the person failed to give notice as required by Subsection (a) or misrepresented conduct that resulted in a citation, notice of violation or penalty, or similar sanction. Requires the district or port authority to compensate the person for services performed before the termination of the contract.

(c) Provides that this section applies to all purchasing methods available to a district or port authority.

SECTION 11. Amends Section 60.412(a), Water Code, to provide that a contract for a purchase is exempt from the requirements of Sections 60.404 and 60.405 of this code if a contract is for the purchase of a certain item, including any item necessary to secure a district or port authority during a period of heightened security as determined by a certain entity.

SECTION 12. Amends Section 60.4125, Water Code, by adding Subsection (d), to require the purchase solicitation, if a purchase or contract made under Subsection (a) is subject to a small business development program adopted by the port commission of the port authority or district, to indicate that fact and to also indicate where a copy of the program requirements may be obtained.

SECTION 13. (a) Effective date: upon passage or September 1, 2003.

(b) Provides that Sections 60.4035 and 60.4115, Water Code, as added by this Act, and Sections 60.404 and 60.4125, Water Code, as amended by this Act, apply only to a contract entered into on or after the effective date of this Act. Provides that a contract entered into before the effective date of this Act is governed by the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

(c) Provides that the changes in law made to Sections 60.039, 60.040, 60.041, and 60.042, Water Code, by this Act apply to a lease entered into before, on, or after the effective date of this Act.